

AMENDED IN ASSEMBLY JANUARY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 725

Introduced by Assembly Member Floyd

February 24, 1999

~~An act relating to state employees, and declaring the urgency thereof, to take effect immediately. An act to add Section 2220.1 to the Business and Professions Code, and to add Section 5058.1 to the Penal Code, relating to physicians and surgeons.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 725, as amended, Floyd. ~~State—employees: memorandum of understanding~~ *Physician and surgeons: inmate complaints.*

Under existing law, the Division of Medical Quality investigates complaints from the public of unprofessional conduct by a physician and surgeon. Existing law also makes the Director of Corrections responsible for the supervision, management, and control of the state prisons and the care, custody, and treatment of their inmates.

This bill would authorize the Director of Corrections to receive from any inmate or former inmate, or any person acting on behalf of any inmate or former inmate, any complaint relating to any medical treatment or mental health services provided by a physician and surgeon during the inmate's or former inmate's incarceration and refer it to the Division of Medical Quality, provided that the Department of

Corrections has conducted a reasonable inquiry and determined that there is probable cause to believe the physician and surgeon may be guilty of unprofessional conduct. This bill would also prohibit the Division of Medical Quality from accepting and investigating any of these complaints unless the Director of Corrections has referred the complaint, following completion of the inquiry, as specified, by the Department of Corrections.

~~Existing law provides that if any provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act.~~

~~This bill would approve provisions that require the expenditure of funds of an unspecified memorandum of understanding entered into between the state employer and a specified employee organization, and would provide that the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.~~

~~The bill would also declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. The Legislature finds and declares that~~
- 2 ~~the purpose of this act is to adopt agreements pursuant to~~
- 3 ~~Section 3517 of the Government Code entered into by the~~
- 4 ~~state employer and recognized employee organizations~~
- 5 ~~to make any necessary statutory changes in health,~~
- 6 ~~retirement, salary, or other benefits.~~
- 7 ~~SEC. 2. The provisions of the memorandum of~~
- 8 ~~understanding prepared pursuant to Section 3517.5 of the~~
- 9 ~~Government Code and entered into by the state~~

~~1 employer and State Bargaining Unit 16, the Union of
2 American Physicians and Dentists, dated _____, and
3 that requires the expenditure of funds, are hereby
4 approved for the purposes of Section 3517.6 of the
5 Government Code.~~

~~6 SEC. 3. Notwithstanding Section 3517.6 of the
7 Government Code, the provisions of any memorandum
8 of understanding that require the expenditure of funds
9 shall become effective even if the provisions of the
10 memorandum of understanding are approved by the
11 Legislature in legislation other than the annual Budget
12 Act.~~

~~13 SEC. 4. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or
15 safety within the meaning of Article IV of the
16 Constitution and shall go into immediate effect. The facts
17 constituting the necessity are:~~

~~18 In order for the provisions of this act to be applicable
19 as soon as possible in the 1999-2000 fiscal year, and so
20 facilitate the orderly administration of state government
21 at the earliest possible time, it is necessary that this act
22 take effect immediately.~~

~~23 SECTION 1. Section 2220.1 is added to the Business
24 and Professions Code, to read:~~

~~25 2220.1. The Division of Medical Quality shall not
26 accept or investigate any complaint from any inmate or
27 former inmate, or any person acting on behalf of any
28 inmate or former inmate, relating to any medical
29 treatment or mental health services provided by a
30 physician and surgeon during the inmate's or former
31 inmate's incarceration in any prison or institution under
32 the jurisdiction of the Department of Corrections, unless
33 the Director of Corrections refers the complaint after the
34 Department of Corrections has conducted a reasonable
35 inquiry and determined that there is probable cause to
36 believe that the physician and surgeon may be guilty of
37 unprofessional conduct.~~

~~38 SEC. 2. Section 5058.1 is added to the Penal Code, to
39 read:~~

1 5058.1. *The Director of Corrections is authorized to*
2 *receive from any inmate or former inmate, or any person*
3 *acting on behalf of any inmate or former inmate, any*
4 *complaint relating to any medical treatment or mental*
5 *health services provided by a physician and surgeon*
6 *during the inmate's or former inmate's incarceration in*
7 *any prison or institution under the jurisdiction of the*
8 *Department of Corrections, and is authorized to refer the*
9 *complaint to the Division of Medical Quality provided*
10 *that the Department of Corrections has conducted a*
11 *reasonable inquiry and determined that there is probable*
12 *cause to believe that the physician and surgeon may be*
13 *guilty of unprofessional conduct.*

